

## PROGRAM GUIDANCE

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ARRA DOE WAP No. 15  
Regular DOE No. 1  
2011 LIHEAP No. 2

Date: January 4, 2011

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TO: Energy Program Contractors/Service Providers

SUBJECT: Guidance on Advance Payment Policy and Contract Requirements

PURPOSE: To inform Contractors of forthcoming standard contract provisions regarding advance payments

REFERENCES: Code of Federal Regulations

- 10 CFR, Chapter 2, § 600.121
- 10 CFR, Chapter 2, § 600.122
- 10 CFR, Chapter 2, § 600.220
- 10 CFR, Chapter 2, § 600.221

Draft Standard Advance Language for Energy Contracts

EFFECTIVE DATE OF GUIDANCE: January 4, 2011

### Rationale

Audits of CSD's ARRA DOE WAP program by the California Bureau of State Audits (BSA), in consultation with the U.S. Department of Energy (DOE), resulted in findings that the advance payment policy, reflected in CSD's existing Energy Contracts, with particular reference to ARRA DOE WAP, were not compliant with Federal requirements.

The DOE regulations, cited above, provide that the time lapsing between the disbursement of funds and the expenditure of funds must be *minimized* and that funds advanced must be the minimum amount needed, and must be timed in accordance with the *actual immediate cash requirements* of the recipient.

In order to meet Contractors' need for working capital, and to satisfy their cash flow requirements, so that timely payments can be made for materials, goods and services, and payroll, CSD has devised a standard advance payment procedure, called the **Working Capital Advance (WCA)** for all Energy contracts. This guidance explains

how the WCA will work.

CSD consulted with DOE officials in the course of developing the contract provisions. DOE issued guidance specifying procedures that are acceptable to DOE and compliant with the regulations. The requirements and procedures set out below are based on that guidance.

Uniformity of advance payment procedure among CSD's various Energy Programs will facilitate ease of implementation for both Contractors and the Department. Although the regulations cited above do not apply to the LIHEAP program, strictly speaking, they do constitute a useful Federal model for a compliant advance payment program. Accordingly, all CSD Energy contracts will employ the WCA methodology.

### Requirements

The WCA is based on *projected quarterly expenses*, and it must be reconciled with actual expenditures at the end of each quarter. This will enable CSD and contractors to meet the two primary Federal regulatory requirements of 1) minimizing the time from the issuance of funds to their expenditure; and 2) providing only the minimum amount needed to meet expenditure needs as those needs develop.

The WCA procedure works as follows:

1. Contractor projects its working capital needs, i.e. anticipated programmatic operating expenses, for each month in the contract term, by quarter, *with particular emphasis on the three months in the first quarter.*

**Note:** Advances cannot be issued before a contract is fully executed, so in order to minimize the time lapse until receipt of advance funds, Contractor should begin preparing its quarterly projections immediately, so that its WCA request can be submitted and reviewed during the contract issuance and execution processes.

2. Contractor submits *new* Working Capital Advance form 143 (attached) projecting capital needs for the contract term and its WCA request for the first quarter.
3. CSD reviews the WCA request for approval. When request is approved and contract is fully executed, an advance check will be disbursed to Contractor.
4. A WCA *may* be requested quarterly and will be issued in the first month of the

quarter (though the WCA for first quarter will be somewhat delayed pending contract execution). The WCA for the quarter will be equal to *one-third* of the total projected expenditures for the entire quarter.

5. At the beginning of the second month Contractor will submit its expenditure reimbursement request and activity report for the *actual* expenditures incurred during the first month of the quarter. Upon approval by CSD, a reimbursement remittance will be issued.
6. Contractor will follow the same procedure, submitting reimbursement requests at the beginning of the third month for *actual* expenditures incurred during the second month of the quarter.
7. At the end of the quarter the WCA will be reconciled. Assuming Contractor requests and is approved for a new WCA in the second, (or subsequent) quarter, reconciliation of the existing WCA will be effected as follows:
  - a. A calculation is made in which Contractor's *actual* expenditures incurred during the third month of the quarter are deducted from the WCA that was paid to Contractor in the first month of the quarter.
  - b. If the WCA was greater than the third month's expenses, the difference (shortfall) is *deducted from* the next quarter's WCA and Contractor is paid the reduced amount.
  - c. If the WCA was less than the third month's expenses, the difference (excess) is *added to* the next quarter's WCA and the Contractor is paid the full second quarter WCA, plus the excess.
8. If the Contractor chooses *not* to apply for a subsequent WCA, the existing WCA will be reconciled by deducting the shortfall from, or adding the excess to, Contractor's reimbursement for *actual* expenditures incurred during the month following the quarter being reconciled.
9. In order to ensure that the WCA is being repaid (reconciled with actual expenditures) in a timely fashion, Contractor must submit monthly reimbursement requests and activity reports – whether or not additional WCA's are requested – until such time as the WCA in question is repaid. This implies that Contractor must conduct operations at a sufficient level to generate revenue to liquidate the WCA. To prevent the failure to minimize the time between disbursement of funds and expenditure of funds, as required under Federal Regulations, CSD will take the steps necessary to effect timely

reconciliation or repayment of any outstanding WCA balance.

### Example

Month	One	Two	Three	Totals	Four (2 <sup>nd</sup> qtr. WCA)
Projected Expenditures*	80	100	120	300	120 (one-third of qtr. projection)
Actual Expenditures*	60	100	125	285	-
Disbursements*	100 (WCA)	60	100	260	145 (WCA, plus excess)

\* In thousands

In the above example, Contractor under-spent the projection and the WCA in the first month, hit the projection exactly in the second month and exceeded the projection in the third month, spending \$25K more in the quarter than it received (\$125K, actual expenditure in third month, minus the \$100K WCA = \$25K excess). The excess was then added to the WCA in the next quarter, thus reconciling the first quarter PCA.

Had Contractor spent only, say, \$90K in the third month, the actual expenditure for the quarter would have been \$250K (\$10K less than it actually received in disbursements), reducing the WCA for the next quarter from \$120K to \$110K.

### Conclusion

The WCA provides the Contractor with working capital to meet its cash flow requirements. By reconciling funds advanced against amounts expended at the end of each quarter, the Federal requirement of minimizing time-lapse and bringing advances into line with actual expenditures is achieved. In basing the WCA on quarterly projections, the Contractor can adjust the advance request to correspond to its needs for capital as conditions change and the contract term progresses.